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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 **LARRY DEAN PADILLA,**

Plaintiff,

15
16 v.

17 **M. S. EVANS,**

18 Defendants.
19

CASE NO. C 06-1725 JF

**DECLARATION OF M. S.
EVANS IN SUPPORT OF
DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

20 I, M. S. Evans, declare:

21 1. I am the Warden of Salinas Valley State Prison (SVSP). I have been employed with
22 the California Department of Corrections and Rehabilitation for twenty three and a third years. I
23 have served as the Warden at SVSP for three and a half years.

24 2. I have personal knowledge of the information set forth below, and if called as a witness
25 in this matter, I could and would so competently testify. I submit this declaration in support of
26 Defendant's Motion for Summary Judgment.

27 3. From January 1 through January 26, 2005, the dates alleged in Plaintiff's First
28 Amended Complaint, I was working as the Acting Warden of SVSP. As the Acting Warden, I

Decl. Evans Supp. Def.'s Mot. Summ. J.

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1 was charged with the overall management of SVSP, which required me to ensure that programs
2 were running smoothly on each of SVSP's four housing units (facilities), including "A" Facility,
3 Plaintiff's housing unit. As Acting Warden, I also ensured that each facility was operating in a
4 safe and secure manner at all times. In accordance with my duties, I am required to create a daily
5 activity schedule for implementation throughout the institution. Included within the daily
6 activity schedule is a yard/day room rotation which is used to coordinate inmates' recreational
7 time.

8 4. At SVSP there are four housing facilities lettered A, B, C, and D. Within A and B
9 Facilities there are five buildings numbered 1 through 5 housing approximately 200 inmates
10 within each building. During the time period alleged in Plaintiff's Amended Complaint, some
11 inmates living in A and B Facilities were housed in the Facility's gym. Conversely, C and D
12 Facilities, which house high security general population inmates and administrative segregation
13 inmates, have eight buildings numbered 1-8 with two separate recreational yards, and house
14 approximately 120 inmates within each building. Within each building housing inmates on
15 Facilities A and B, there are two tiers housing approximately one hundred inmates on each tier.
16 A tier is a story or level containing cells housing inmates. Each tier in Buildings 1-5 on Facilities
17 A and B contains approximately 50 cells designed to house two inmates in each cell.

18 5. Within each housing facility at SVSP, including Facility "A," there are one or more
19 recreation yards (yard). Each yard is an outdoor area comprised of a large grass field
20 approximately 100 yards long surrounded by a dirt jogging track. Along different parts of the
21 jogging track are cement benches with tables where inmates can sit and socialize. Furthermore,
22 each yard has a basketball court and an area with parallel bars where inmates can do resistance
23 exercises, such as pull-ups, chin-ups, and bar dips.

24 6. Also within each housing facility at SVSP, including Facility "A," there are day rooms
25 located within each building housing inmates. A day room is a large common area located on the
26 lower tier of a particular building between the cell doors of the inmates housed on the lower tier
27 and the building's control booth and sally port area. In the day room inmates can watch
28 television, use the telephone, play cards, and socialize. While aerobic exercise is not permitted

1 in the day room, inmates can freely walk around and are sometimes allowed to do low impact
2 exercise such as push-ups.

3 7. During the month of January 2005, and currently, SVSP is operating on a yard/day
4 room rotation. This program is implemented to account for prison overcrowding, staffing
5 shortages, and institutional security. Under the yard/day room rotation all inmates housed within
6 SVSP are afforded an equal opportunity to SVSP's daily activities, including recreational time.
7 The yard/day room rotation is equally applied to all facilities located within the prison, including
8 Plaintiff's facility, Facility "A." Without implementing a yard/day room rotation, SVSP could
9 not successfully provide inmates with outdoor recreational time because too many inmates would
10 be located on the prison yard at the same time. Such a senario would create a grave security risk
11 for both inmates and staff alike because SVSP's recreational yards, due to their size, could not be
12 properly monitored.

13 8. The yard/day room rotation is set forth in a daily activity schedule which is followed by
14 all facilities, unless institutional lockdowns, modified programs, adverse weather conditions,
15 other emergencies, or operational necessities warrant a change in program.

16 9. Under the yard/day room rotation inmates are afforded the opportunity to exercise on
17 the prison yard every other day based on a building and tier rotation. Accordingly, with respect
18 to inmates housed in Facilities A and B, on odd days Buildings 1, 3, and 5 are released to the
19 recreational yard and on even days Buildings 2 and 4 are released to the recreational yard.
20 During the time period alleged in Plaintiff's Amended Complaint, inmates housed in the gym
21 were also released to the recreation yard on even days. Under the yard/day room rotation, each
22 facility provides two separate yard releases, which alternate based on a tier rotation. Thus, on the
23 day that a particular building is scheduled for yard release, inmates housed within that building
24 will have the opportunity to attend yard either in the morning or in the afternoon depending on
25 their tier assignment. For example, inmates housed on the upper tier of Building 1 would be
26 allowed to go to yard on January 1, 2008 in the morning, while inmates housed on the lower tier
27 of Building 1 would be allowed to go to yard in the afternoon on that day.

28 10. During the times one tier in a building is out to yard in Facilities A and B, the other tier

1 is afforded the opportunity to use the building's day room.

2 11. Under the yard/day room rotation in Facilities A and B, morning yard commences at
3 9:00 a.m. and ends at 11:30 a.m. and afternoon yard commences at 1:00 p.m. and ends at 3:30
4 p.m. Similarly, under the rotational plan, morning day room commences at 9:15 a.m. and ends at
5 11:15 a.m., while afternoon day room commences at 1:15 p.m. and ends at 3:15 p.m. Thus, on
6 the days a building is scheduled for yard, inmates are afforded a total of four and a half hours of
7 the opportunity to exercise, including two and a half hours of outdoor exercise.

8 12. Under the yard/day room rotation in Facilities A and B, on the days a building is not
9 scheduled for yard release, inmates housed within that building are still afforded the opportunity
10 to use the day room for either two hours in the morning or for two hours in the afternoon,
11 depending on their tier rotation. Moreover, inmates also are always afforded the opportunity to
12 do low impact exercise within their cells such as knee bends, jumping jacks, sit-ups, and push-
13 ups.

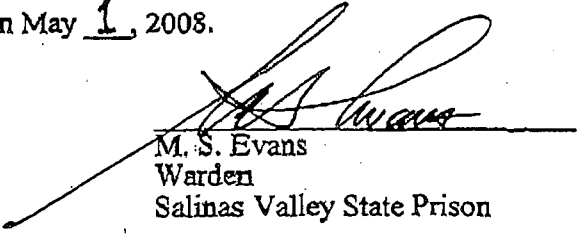
14 13. All inmates are given the choice to attend these recreational programs. On any given
15 day, and inmate may chose to remain in his cell rather than to go out to the recreational yard or
16 the day room.

17 14. In accordance with SVSP's plan of operations, each facility floor officer and control
18 booth officer is required to keep a log of the daily activities of each building housing inmates.
19 While I am not personally familiar with Plaintiff, prison records indicate that during the month of
20 January 2005, Plaintiff was housed in A Facility, Building 3, Cell 202 (upper tier). A review of
21 the log books of Plaintiff's housing building indicate that during the month of January 2005,
22 Facility A was operating on a yard/day room rotation and only deviated from it on a few
23 occasions when an institutional emergency or operational necessity (such as staff shortages, a
24 state-wide lockdown, or inclement weather) warranted a change in program. A review of the log
25 books further indicates that Plaintiff was afforded approximately forty-five hours of exercise
26 time, including seventeen hours of outdoor exercise, between January 1 and January 26, 2005.

27 15. I further understand from the Attorney General's Office that Plaintiff alleges that he
28 was not afforded the same amount of exercise time as those inmates housed within the general

1 population. According to prison records, in January 2005, and today, Plaintiff is housed in a
2 sensitive needs yard. A sensitive needs yard is designed to provide a place where inmates can
3 work, attend educational programs, participate in physical recreation, attend religious activities,
4 receive medical treatment, have visits, participate in leisure time activities, and establish a
5 general population program while committed to the custody of the California Department of
6 Corrections and Rehabilitation. Sensitive needs yard housing on Facility A is a housing unit
7 designed for inmates that need a safe environment due to their inability to safely program in a
8 traditional general population setting. Sensitive needs yard inmates are generally comprised of
9 inmates who are drop outs of prison gangs or disruptive groups, are victims or targets for assault
10 because of their commitment offense or their age, or have enemy concerns. Sensitive needs yard
11 inmates, regardless of the reason for their placement on a sensitive needs yard, are all afforded
12 the same amount of exercise time as each other. And as stated above, the yard/day room rotation
13 implemented in Plaintiff's housing unit was equally implemented on the other three housing
14 facilities at SVSP at the time.

15 I swear under penalty of perjury that the forgoing is true and correct to the best of my
16 recollection. Executed at Soledad, California on May 1, 2008.

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19 M. S. Evans
20 Warden
21 Salinas Valley State Prison
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